

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KENNETH AND PAMELA PRICE JEAN *

*

Plaintiffs *

*

v. *

*

CITY OF ASHBURNHAM POLICE *

DEPARTMENT, CITY OF WINCHENDON *

POLICE DEPARTMENT, ROB HARRINGTON, *

in his capacity as CHIEF OF THE WINCHENDON * **C.A. NO. 03-12306MLW**

POLICE DEPARTMENT, JACK MURRY, in his *

capacity as CHIEF OF THE ASHBURNHAM *

POLICE DEPARTMENT, TODD C. PARSONS *

RAYMOND M. ANAIR, ROBERT BRENNON, *

WILLIAM P. GEOFFROY, BRIAN HART, *

KEVIN AHEARN, KEVIN E. WOLSKI *

OFFICER JOHN DOE, OFFICER JOHN POE. *

*

Defendants *

MOTION TO AMEND THE COMPLAINT

Now comes the plaintiff pursuant to M.R.C.P., Rule 15, and moves that the court allow him to file the Amended Complaint filed herewith. As reason, plaintiff asserts that proper demand was made upon appropriate chief executive officers of the towns of Ashburnham and Winchendon, as required by M.G.L. c. 258, by letter dated October 24, 2003, a copy of which is attached hereto as Exhibit A, and incorporated herein.

The letter was never responded to, as required by law, and should be deemed by the court to be a denial of all claims asserted. See M.G.L.A. c258 §4 "The failure of the executive officer to deny such claim in writing within six months after the date upon which it is presented, . . . shall be deemed a final denial of such claim."

The Plaintiff now moves for leave to file an amended complaint reflecting the denial Plaintiff's demand made under M.G.L. c. 258. M.R.C.P., Rule 15(b) states that leave to amend "shall be freely given when justice so requires", and that is the case here. The Plaintiff seeks to add counts of negligence and negligent supervision on the part of Defendant Town of Ashburnham and defendant Town of Whinchendon. As Reason, Defendant states that the statute of limitations was about to run, forcing defendant to file suit. Now that the requisite six months has elapsed since demand was made under M.G.L. 258, plaintiff seeks leave to amend the complaint to include all claims now available to the plaintiff.

Respectfully submitted,
Kenneth Jean, et al
by their counsel

Date: May 7, 2004

/S/ Andrew M. Fischer
Andrew M. Fischer
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CERTIFICATE OF SERVICE

I, Andrew M. Fischer, hereby certify that on this date I served a copy of the above document on the defendants by mailing a copy, first class, postage prepaid to John J. Cloherty, III, Pierce, Davis, Perritano, LLP, Ten Winthrop Square, Boston, MA 02110, and to Nancy Frankel Pelletier, Robinson Donovan, P.C., 1500 Main Street, Ste. 1600, Springfield, MA 01115-5609.

Date: May 7, 2004

/S/ Andrew M. Fischer
Andrew M. Fischer

jean\mntamend